IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

WP(C).No. 20042 of 2004(J)

AGAINST THE ORDER IN EP 114/2003. IN OS.2023/1998 of MUNSIFF COURT,ALUVA

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PETITIONER:

PIOUS GEORGE, RESIDING AT POKATH HOUSE, CHOONDY, ERUMATHALA, ALUVA 683 105.

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)
SMT.MERLIN MATHEW

RESPONDENTS:

M/S.KUTTUKARAN ENGINE REBUILDERS, A REGISTERED PARTNERSHIP FIRM HAVING HEAD OFFICE AT KUTTUKARAN CENTRE, MAMANGALAM, COCHIN -25 AND ARE OF ITS BRANCH AT MARKET ROAD, ERNAKULAM REPRESENTED BY ITS PARTNER SRI.JOHN PAUL

BY ADV. SRI.S.SUDHISH KUMAR
SRI.K.Y.TOMY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 20042 OF 2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE EXECUTION PETITION IN EP NO.114 OF 2003.

EXT.P2 : TRUE COPY OF THE ORDER IN EA NO.98 OF 2004 DT.10.06.2004.

EXT.P3 : TRUE COPY OF THE ORDER IN EA NO.99 OF 2004 DT.10.06.2004.

RESPONDENT'S EXHIBITS:

EXT.R1 A : TRUE COPY OF THE EP NO.13/2002 FILED BY THE RESPONDENT BEFORE THE MUNSIFF'S COURT, ERNAKULAM AND ORDER OF THE MUNSIFF'S COURT DT.04.03.2003 TYPED ON THE REVERSE SIDE OF THE EP.

EXT.R1 B : TRUE COPY OF THE PROOF AFFIDAVIT FILED BY THE RESPONDENT WITH REGARD TO THE MEANS OF THE JUDGMENT DEBTOR, DT.12.02.2004.

EXT.R1 C : TRUE COPY OF THE REPORT COLLECTED FROM INTERNET OF THE J.D. DT.31.01.04 PRODUCED BEFORE THE COURT BELOW.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 20042 OF 2004

Dated this the 25th day of July, 2007

JUDGMENT

Heard both sides. Learned counsel for the petitioner, who is the judgment debtor, seeks instalment facility in the matter of paying off the decree debt. I find that while admitting this Writ Petition and granting stay this Court had imposed a condition that a sum of Rs.10,000/- shall be paid within two months of the order. The stay was extended subsequently imposing similar conditions. I am informed that the condition first imposed has been complied with by the petitioner. There is controversy between the learned counsel as to whether the subsequent conditions have been complied with. Whatever that be, since the respondent is interested only in recovering the amounts due under the decree, this Writ Petition will stand disposed of issuing the following directions:

The petitioner shall pay a sum of Rs.25,000/- towards the decree debt within two months from today and continue to pay every month commencing from 1st November, 2007 at the rate of Rs.10,000/- till such time as the entire debt is is wiped off.

Once the petitioner is confident that the entire decree debt is wiped off, it is open to him to file an application before the court below

for recording full satisfaction of the decree and once the court receives such an application, it will hear both sides and pass orders on the same. It is made clear that if the petitioner makes any default in complying with any of the conditions enumerated above, he will forfeit the benefit of this judgment in which case the impugned order will revive.

PIUS C. KURIAKOSE, JUDGE

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